

APR 10 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN BUENO HERNANDEZ,

Defendant - Appellant.

No. 04-50136

D.C. No. CR-02-01248-ER-01

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Edward Rafeedie, District Judge, Presiding

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Juan Bueno Hernandez appeals from his conviction and 240-month sentence following a guilty plea to conspiracy to possess with intent to distribute and to

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute methamphetamine, and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a) and 846.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Hernandez has filed a brief stating there are no grounds for relief, and a motion to withdraw as counsel of record. No pro se supplemental brief has been filed.

Our examination of the brief and independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 83 (1988), disclose no grounds for relief. Also, the record indicates that Hernandez knowingly and voluntarily waived his right to appeal his sentence. We will enforce the waiver because Hernandez was sentenced within the terms of the plea agreement. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir.2005) (noting that the changes in sentencing law imposed by *United States v. Booker*, 543 U.S. 220 (2005), did not render waiver of appeal involuntary and unknowing).

Counsel's motion to withdraw is **GRANTED**, the appeal of the conviction is **AFFIRMED**, and the appeal of the sentence is **DISMISSED**.